

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

ALBERT J. ASTARITA, DIANA M.
OWENS,

Plaintiffs,

v.

MENARD, INC.,

Defendant.

Case No. 5:17-06151-CV-RK

ORDER

Before the Court is Plaintiff's purported Second Amended Complaint (doc. 61). Fed. R. Civ. P. 15(a) provides that a party may amend its pleading once as a matter of course within 21 days after serving it, or, if the pleading is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12(b), (e), or (f). This case was filed in federal court on December 21, 2017, and Defendant filed a responsive pleading on February 1, 2018 (doc. 24). Therefore, Plaintiff's opportunity to amend once as a matter of course passed on February 22, 2018.

Rule 15(a)(2) provides that in all other cases, "a party may amend its pleading only with the opposing party's written consent or the court's leave." Plaintiff did not seek leave of Court to file an amended complaint, nor did Plaintiff indicate that Defendant consents in writing to the filing of Plaintiff's amended complaint. Therefore, because Plaintiff has not obtained leave of Court or consent from Defendant, Plaintiff's purported second amended complaint (doc. 61) shall be **STRICKEN**.

IT IS SO ORDERED.

s/ Roseann A. Ketchmark
ROSEANN A. KETCHMARK, JUDGE
UNITED STATES DISTRICT COURT

DATED: April 2, 2018